

FILED
US DISTRICT COURT
DISTRICT OF ALASKA

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2006 JUN 13 PM 2: 03

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

FAIRBANKS INVESTORS, INC.)

Plaintiff,)

v.)

UNITED STATES DEPARTMENT)
OF AGRICULTURE, FARM)
SERVICE AGENCY,)

Defendant.)

Case No. F05-0023CV (RRB)

UNITED STATES OF AMERICA)

Third Party Plaintiff,)

v.)

LYALL BRASIER *aka* LYALL R.)
BRASIER, JR *aka* LYALL RAYMOND)
BRASIER, Jr. and JEANNETTE)
BRASIER *aka* JEANNETTE E.)
BRASIER *aka* JEANNETTE ELAINE)
BRASIER, Husband and Wife;)
VANDER WEELE FARMS; and)
FAIRBANKS INVESTORS, INC.,)

Third Party Defendants.)

**OPPOSITION TO MOTION FOR ENTRY OF DEFAULT
AGAINST FAIRBANKS INVESTORS, INC.**

COMES NOW, Third Party Defendant, Fairbanks Investors, Inc., by and

through counsel and hereby opposes the United States Department of Agriculture,

Opposition to Motion for Entry of Default

Fbks Investors v. USDA

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Farm Service Agency's (FSA's) *Motion for Entry of Default*. An Answer has been filed on behalf of Third Party Defendants, Fairbanks Investors, Inc. and since virtually the entirety of the Cross-Claim and Third Party Complaint as filed by the FSA focuses upon Third Party Defendants Lyall and Jeanette Brasier, Fairbanks Investors, Inc. is only an ancillary party in that regard. Likewise, based on the fact that Fairbanks Investors, Inc.'s original complaint in this matter seeks a declaratory judgment asserting a storage lien based on the fact that the equipment in which the FSA asserts a security interest continued to be stored on the premises despite Fairbanks Investors having acquired title to the underlying real estate, the substance of that claim remains to be litigated. The relief requested by the FSA in its cross-claim and third party complaint against Fairbanks Investors is inappropriate in this regard.

Finally, based on the fact that an Answer has been filed in this matter and the parties' Case Scheduling & Planning Conference Report is due on July 3, 2006, the FSA is in no way prejudiced by the court denying the Motion for Default.

Respectfully submitted this 12th day of June, 2006, at Fairbanks, Alaska.

BORGESON & BURNS, PC
Attorney(s) for Fairbanks Investors, Inc.

By: _____

John J. Burns
ABA: 8601008

Certificate of Service

I hereby certify that on the 13 day of June, 2006
a true and correct copy of the foregoing document was
provided to the following attorneys/parties of record:

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By: _____
Legal Secretary
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